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9 UNITED STATES DISTRICT COURT
10 WESTERN DISTRICT OF WASHINGTON
11 AT TACOMA

12 LARRY DARNELL GIVENS,

13 Petitioner,

14 v.

15 STATE OF WASHINGTON,

16 Respondent.
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Case No. C09-5219BHS/JRC

REPORT AND
RECOMMENDATION
TO DENY *IN FORMA*
PAUPERIS STATUS

NOTED FOR:
June 19, 2009

18 This habeas corpus action, filed pursuant to 28 U. S.C. 2254, has been referred to the
19 undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636 (b)(1)(B) and
20 Local Magistrate Judge's Rules MJR 3 and MJR 4.

21 Petitioner filed a proposed petition and a motion to proceed *in forma pauperis*. This
22 Report and Recommendation only addresses the motion to proceed *in forma pauperis*.
23 Petitioner's documents show a monthly income of \$55.00 a month and \$105.27 dollars in his
24 account. Petitioner did not provide an average spendable amount (Dkt. # 4). Petitioner appears
25 to be able to afford the \$5.00 filing fee in this case.
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1 The district court may permit indigent litigants to proceed *in forma pauperis* upon
2 completion of a proper affidavit of indigence. *See* 28 U.S.C. § 1915(a). However, the court has
3 broad discretion in denying an application to proceed in forma pauperis. Weller v. Dickson, 314
4 F.2d 598 (9th Cir. 1963), *cert. denied*, 375 U.S. 845 (1963). Petitioner has the funds needed for
5 full payment.

6 Plaintiff has not shown that he is unable to pay the full filing fee to proceed with his
7 petition. Accordingly the court recommends the *in forma pauperis* status be **DENIED and**
8 **petitioner be given thirty days to pay the filing fee.** Pursuant to 28 U.S.C. § 636(b)(1) and
9 Rule 72(b) of the Federal rules of Civil Procedure, the parties shall have ten (10) days from
10 service of this Report to file written objections. *See also* Fed. R. Civ. P. 6. Failure to file
11 objections will result in a waiver of those objections for purposes of appeal. Thomas v. Arn, 474
12 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is directed to
13 set the matter for consideration on June 19, 2009, as noted in the caption.

14 DATED this 1st day of June, 2009.

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18 J. Richard Creatura
19 United States Magistrate Judge
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